

#10 DAE



Patents

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)

Isabelle Guyon et al.)

Serial No. 10/057,849)

Filed: January 24, 2002)

For: METHODS OF IDENTIFYING)
PATTERNS IN BIOLOGICAL SYSTEMS)
AND USES THEREOF)

Examiner: Unknown

Art Unit: 2122

REQUEST FOR RECONSIDERATION OF PETITION UNDER 37 C.F.R. § 1.47(b)

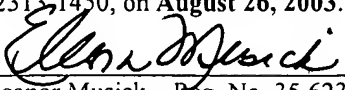
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Sir:

Applicants request reconsideration of the Petition under 37 C.F.R. § 1.47(b), filed December 26, 2002, for the above-referenced application. Applicants herein provide incontrovertible evidence that the uncooperative co-inventors received the application papers (Specification, Claims, Drawings and Declaration and Power of Attorney document); and a showing that such action is required to prevent irreparable damages.

The two co-inventors, Isabelle Guyon and Jason Weston, refuse to sign documents relating to the filing of this application. BIOwulf Technologies, LLC, (also known as BIOwulf, LLC), and the Attorneys of Record have used diligent efforts in communicating with co-inventors Isabelle Guyon and Jason Weston. Both co-inventors have

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450, on August 26, 2003.


Eleanor Musick – Reg. No. 35,623

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OFFICE OF PETITIONS

REQUEST FOR RECONSIDERATION OF PETITION UNDER 37 C.F.R. § 1.47(b)

Serial No. 10/057,849

Page 2

refused to cooperate and continue to refuse to cooperate in completing the documents necessary to complete the filing of the above-referenced application.

The Declaration of Eleanor Musick, Attorney of Record, provides evidence of receipt of the complete application including the Specification, Claims, Drawings and a Declaration and Power of Attorney by Isabelle Guyon and Jason Weston, and are included with this Request for Reconsideration, along with Exhibits U, V, W, and X.

Although they had been previously sent to the inventors in accordance with our normal regular procedure, in response to the refusal of Applicants' last petition, a duplicate set of complete copies of the Specification, Claims, Drawings, and Declaration and Power of Attorney were sent to Jason Weston and Isabelle Guyon on July 28, 2003. (See Exhibits U and V). Isabelle Guyon and Jason Weston both signed for the packages containing the Specification, Claims, Drawings and Declaration and Power of Attorney. (See Exhibits X and Y) Both Jason Weston and Isabelle Guyon have therefore received at least one complete copy of the above-referenced application as well as the Declaration and Power of Attorney documents requiring their signatures.

Isabelle Guyon has acknowledged receipt of a complete copy of the Specification, Claims, Drawings and Declaration and Power of Attorney and has expressly refused to execute the Declaration and Power of Attorney document. (Exhibit W).

Jason Weston signed for the package containing a complete copy of the Specification, Claims, Drawings and Declaration and Power of Attorney. (See Exhibit X). We have received no communication from Jason Weston.

As stated in the Declaration of Stephen Barnhill, the failure of the U.S. Patent and Trademark Office to grant a filing date for and examine the above-referenced application

REQUEST FOR RECONSIDERATION OF PETITION UNDER 37 C.F.R. § 1.47(b)

Serial No. 10/057,849

Page 3


will cause irreparable damage to BIOwulf Technologies, LLC, in that BIOwulf Technologies, LLC, will not be able to preserve the patent rights for an invention arising from research that the company conducted and funded.

BIOwulf Technologies, LLC, and Attorneys of Record have repeatedly contacted Isabelle Guyon and Jason Weston. Isabelle Guyon and Jason Weston have failed to execute documents necessary for the filing of the above-referenced patent application. Therefore, BIOwulf Technologies, LLC, requests that the Petition to declare Isabelle Guyon and Jason Weston uncooperative inventors be reconsidered and granted so that the rights in the invention held by BIOwulf Technologies, LLC, will be maintained, and that the patent application can proceed to examination by the U.S. Patent and Trademark Office.

Should any further fees be required for this reconsideration, please charge them to the Deposit Account 11-0855.

Respectfully submitted,

KILPATRICK STOCKTON LLP

By: 
Eleanor Musick
Attorney for Applicants

KILPATRICK STOCKTON LLP
Suite 2800
1100 Peachtree Street
Atlanta, GA 30309-4530
404-745-2461
Our Docket: 02331-0161 (42286-267669)



Patents

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Isabelle Guyon et al.

Serial No. 10/057,849

Filed: January 24, 2002

For: METHODS OF IDENTIFYING PATTERNS IN
BIOLOGICAL SYSTEMS AND USES THEREOF)

Examiner: Unknown

Art Unit: 2122

DECLARATION OF ELEANOR MUSICK

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Sir:

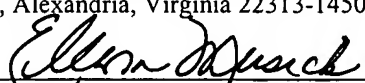
I, Eleanor Musick, having first-hand knowledge of the facts recited herein, declare as follows:

1. A complete copy of the Specification including Claims, Drawings, and Declaration and Power of Attorney were sent to the last known addresses of Isabelle Guyon and Jason Weston. (See Exhibit U and V).

2. Isabelle Guyon signed and returned a refusal to execute and return the Declaration and Power of Attorney. (See Exhibit W).

3. Jason Weston signed for the Federal Express package containing the Specification including Claims, Drawings and Declaration and Power of Attorney on July 31, 2003. (See Exhibit X).

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450, on August 26, 2003.


Eleanor Musick - Reg. No. 35,623

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DECLARATION OF ELEANOR MUSICK

Serial No. 10/057,849

Page 2

4. No response has been received from Jason Weston.

The undersigned declares further that all statements made herein of her own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine, or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of any patent issuing on this application.

Date: 26 Aug. 2003


Eleanor Musick

Our Docket No.: 02331-0161 (42286/267669)

July 28, 2003

direct dial 404 541 6681
direct fax 404 541 3317
EMusick@KilpatrickStockton.com

VIA FEDERAL EXPRESS

Isabelle Guyon, Ph.D.
955 Creston Road
Berkeley, CA 94708

**Re: U.S. Patent Application for "Methods for Identifying Patterns in
Biological Systems and Uses Thereof"**
Inventors: Isabelle Guyon; Jason Weston
Serial No. 10/057,849 Filed: January 24, 2002
Our Ref: 02331-0161 (42286/267669)

Dear Dr. Guyon:

As you may recall, we have sent copies of the above-referenced application, drawings and declaration to you on at least one prior occasion. For reasons you have explained in your correspondence with Marge Webber and Steve Barnhill, you are unable to execute the declaration because of the significant amount of work that would be required to review the lengthy application.

In order to provide satisfactory evidence of compliance with the requirements of the U.S. Patent and Trademark Office for obtaining consideration of the application in the absence of your signed declaration, we are once again sending the enclosed documents to you. While it would most helpful if you would review the application, claims and drawings and sign the declaration, I will understand if you choose to maintain your prior position. In the latter case, I would appreciate it if you could complete the enclosed "Inventor Response" and return it to me.

Enclosed with the application documents is a self-addressed, pre-paid Federal Express envelope in which you may return either the signed declaration or the completed "Inventor Response". Alternatively, please return either document to me by facsimile using the enclosed fax transmittal.

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ATLANTA AUGUSTA CHARLOTTE LONDON RALEIGH STOCKHOLM WASHINGTON WINSTON-SALEM



Isabelle Guyon, Ph.D.
July 28, 2003
Page 2

I apologize for troubling you with this matter yet again and appreciate your patience.

Please feel free to contact me if you have any questions or concerns.

Cordially yours,



Eleanor M. Musick

Enclosures: Application (124 pages including 10 claims)
Drawings (Figures 1-31)
Declaration and Power of Attorney (2 pages)
Inventor Response
Fax transmittal
Self-addressed, pre-paid FedEx envelope

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City ATLANTA

State GA

ZIP 30309

2 Your Internal Billing Reference

02331-0161 (442286/267669)

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3 To

Recipient's Name Isabelle Guyon, Ph.D.

Phone ()

Company

Address 955 Creston Road

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☐ Dry Ice

☐ Dry Ice

☐ Fragile

☐ Fragile

☐ Fragile

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☐ Signature Required

☐ Sender

☐ Recipient

☐ Third Party

☐ Cash/Check

☐ Cash/Check

☐ Cash/Check

☐ Total Packages

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☐ Total Packages

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t 404 815 6500 f 404 815 6555
www.KilpatrickStockton.com

Date: _____, 2003

direct dial 404 541 6681
direct fax 404 541 3317
EMusick@KilpatrickStockton.com

FAX

RECIPIENT/ PHONE NO.	FAX NO.	COMPANY/ CITY, STATE, COUNTRY
Eleanor Musick 404-541-6681	404-815-6555	Kilpatrick Stockton Atlanta, GA
Janina Malone 404-745-2421	404-815-6555	Kilpatrick Stockton Atlanta, GA

Isabelle Guyon

FROM

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PAGES (WITH COVER)

8936

REFERENCE NO

42286/267669

CLIENT/MATTER NO.

PLEASE CALL 404 815 6497 IF YOU HAVE DIFFICULTY WITH THIS TRANSMISSION.

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COMMENTS

Inventor's Response (02331/0161)

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INVENTOR'S RESPONSE

With regard to U.S. Patent Application for "Methods for Identifying Patterns in Biological Systems and Uses Thereof", Serial No. 10/057,849, filed January 24, 2002, on which I have been named an inventor, I, Isabelle Guyon:

(pls. check (✓ or ✕ where applicable)

_____ have received a copy of each of the listed documents:
_____ application entitled "Methods for Identifying Patterns in Biological Systems and
Uses Thereof" (124 pages total including 10 claims)
Drawings (Figures 1-31)
Declaration and Power of Attorney (2 pages)

_____ refuse to or am otherwise unable to execute and return the enclosed declaration.

for the following reasons (optional): _____

Dated: _____

Signed: _____
Isabelle Guyon



Attorneys at Law

Suite 2800 1100 Peachtree St.
Atlanta GA 30309-4530
t 404 815 6500 f 404 815 6555
www.KilpatrickStockton.com

July 28, 2003

direct dial 404 541 6681
direct fax 404 541 3317
EMusick@KilpatrickStockton.com

VIA FEDERAL EXPRESS

Jason Weston, Ph.D.
20 Burhill Way
St. Leonard's on Sea
Sussex TN 38 OXP
UNITED KINGDOM (GB)

**Re: U.S. Patent Application for "Methods for Identifying Patterns in
Biological Systems and Uses Thereof"**
Inventors: Isabelle Guyon; Jason Weston
Serial No. 10/057,849 Filed: January 24, 2002
Our Ref: 02331-0161 (42286/267669)

Dear Dr. Weston:

As you may recall, we have sent copies of the above-referenced application, drawings and declaration to you previously by both e-mail and Federal Express. As we have confirmed delivery of our prior transmissions and you have not responded, we have assumed that you are unable to or have refused to execute and return the declaration regarding inventorship.

In order to provide satisfactory evidence of our compliance with the requirements of the U.S. Patent and Trademark Office for obtaining consideration of the application in the absence of your signed declaration, we are once again sending the enclosed documents to you. While it would most helpful if you would review the application, claims and drawings and sign the declaration, I will understand if you choose to maintain your prior apparent position. In the latter case, I would appreciate it if you could complete the enclosed "Inventor Response" and return it to me.

Enclosed with the application documents is a self-addressed, pre-paid Federal Express envelope in which you may return either the signed declaration or the completed "Inventor Response". Alternatively, please return either document to me by facsimile using the enclosed fax transmittal.

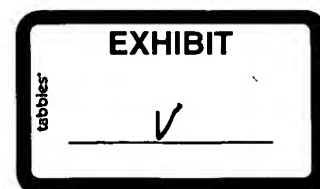
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ATLANTA AUGUSTA CHARLOTTE LONDON RALEIGH STOCKHOLM WASHINGTON WINSTON-SALEM

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Jason Weston, Ph.D.

July 28, 2003

Page 2

I apologize for troubling you with this matter yet again and appreciate your patience.

Please feel free to contact me if you have any questions or concerns.

Cordially yours,



Eleanor M. Musick

Enclosures: Application (124 pages including 10 claims)
Drawings (Figures 1-31)
Declaration and Power of Attorney (2 pages)
Inventor Response
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Address

Address 1100 PEACHTREE ST NE STE 2800

City ATLANTA State Province GA

Country USA ZIP Postal Code 303094530

To Recipient's Name Jason Weston, Ph.D. Phone

Company

Address 20 Burhill Way

Address St. Leonard's on Sea

City Sussex State Province

Country UNITED KINGDOM (GB) ZIP Postal Code TN 38 OXP

Recipient's Tax I.D. number for Customs purposes
e.g. GST/VAT/PAN/VEIN, or as locally required

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Eleanor Musick 404-541-6681	404-815-6555	Kilpatrick Stockton Atlanta, GA
Janina Malone 404-745-2421	404-815-6555	Kilpatrick Stockton Atlanta, GA

Jason Weston
FROM

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8936
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Inventor's Response (02331/0161)

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INVENTOR'S RESPONSE

With regard to U.S. Patent Application for "Methods for Identifying Patterns in Biological Systems and Uses Thereof", Serial No. 10/057,849, filed January 24, 2002, on which I have been named an inventor, I, Jason Weston:

(pls. check (✓ or × where applicable)

_____ have received a copy of each of the listed documents:
_____ application entitled "Methods for Identifying Patterns in Biological Systems and
Uses Thereof" (124 pages total including 10 claims)
Drawings (Figures 1-31)
Declaration and Power of Attorney (2 pages)

_____ refuse to or am are otherwise unable to execute and return the enclosed declaration.

for the following reasons (optional): _____

Dated: _____

Signed: _____
Jason Weston

**KILPATRICK
STOCKTON LLP**

Attorneys at Law

Suite 2800 1100 Peachtree St.
Atlanta GA 30309-4530
t 404 815 6500 f 404 815 6555
www.KilpatrickStockton.comDate: August 1, 2003direct dial 404 541 6681
direct fax 404 541 3317
EMusick@KilpatrickStockton.com**FAX**

RECIPIENT/ PHONE NO.	FAX NO.	COMPANY/ CITY, STATE, COUNTRY
Eleanor Musick 404-541-6681	404-815-6555	Kilpatrick Stockton Atlanta, GA
Janina Malone 404-745-2421	404-815-6555	Kilpatrick Stockton Atlanta, GA

Isabelle Guyon
FROM3

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REFERENCE NO

42286/267669

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Inventor's Response (02331/0161)

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ISABELLE GUYON
955 CRESTON ROAD
BERKELEY, CA 94708
510 524 6211
ISABELLE@CLOPINET.COM

August 01, 2003

Eleanor Musick
Suite 2800, 1100 Peachtree St.
Atlanta, GA 30309-4530
Tel: 404 815 6500 / direct 404 541 6681
Fax: 404 815 6555 / direct 404 541 3317
Email: Musick@KilpatrickStockton.com

Re: US patent application for "Methods for identifying patterns in biological systems and uses thereof"

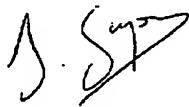
Serial no:10/057/849
Filed: January 24, 2002
KS Ref: 02331-0161 (42286/267669)

Dear Ms. Musick,

Thank you for sending me this new application for reviewing. Since our last correspondence, I have not heard from Dr. Barnhill, regarding the expense approval for my compensation from the bankruptcy court. Therefore, I am unable to perform the careful review of your material that would be required to sign the declaration that you sent me, which engages my responsibility.

However, as a courtesy to you, I reviewed the claims. Claim 1 is way too broad. It covers a wide range of techniques that have been in use for many years. See e.g. (LeCun, 1990) **Optimum Brain Damage**, Y. Le Cun, J.S. Denker, and S.A. Solla. In D. Touretzky Ed. *Advances in Neural Information Processing Systems 2*. Pp 598-605, Morgan Kaufmann. 1990, and (Kohavi, 1997) **Wrappers for feature subset selection**. Ron Kohavi and George John. In *Artificial Intelligence journal*, special issue on relevance, Vol. 97, Nos 1- 2, pp. 273-324. Claims 2, 3, 4 would be OK. Claim 5, 6, 7, 8, 9, and 10 should refer to claim 2 (that should become claim 1).

Best regards



Isabelle Guyon

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INVENTOR'S RESPONSE

With regard to U.S. Patent Application for "Methods for Identifying Patterns in Biological Systems and Uses Thereof", Serial No. 10/057,849, filed January 24, 2002, on which I have been named an inventor, I, Isabelle Guyon:

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Declaration and Power of Attorney (2 pages)

☒ refuse to or am otherwise unable to execute and return the enclosed declaration.

My consulting fees to perform the patent review have not been approved by the bankruptcy court of Barnhill/Biowulf. Therefore, I am unable to perform the careful review of the patent that would be required to sign the enclosed declaration, which engages my responsibility. However, as a courtesy, I reviewed the claims. Claim 1 is way too broad. It covers a wide range of techniques that have been in use for many years. See e.g. (LeCun, 1990) **Optimum Brain Damage**, Y. Le Cun, J.S. Denker, and S.A. Solla. In D. Touretzky Ed. *Advances in Neural Information Processing Systems 2*. Pp 598-605, Morgan Kaufmann. 1990, and (Kohavi, 1997) **Wrappers for feature subset selection**. Ron Kohavi and George John. In *Artificial Intelligence journal*, special issue on relevance, Vol. 97, Nos 1-2, pp. 273-324. Claims 2, 3, 4 would be OK. Claim 5, 6, 7, 8, 9, and 10 should refer to claim 2 (that should become claim 1).

Signed: _____

Isabelle Guyon

August 1, 2003

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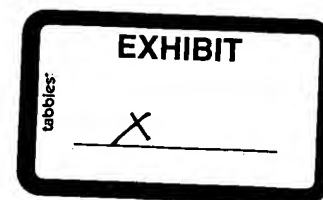
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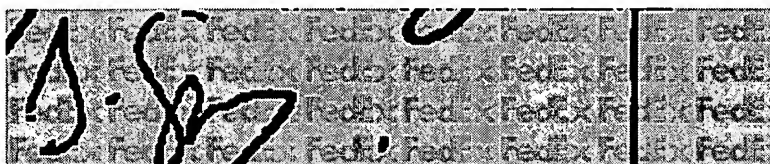
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